



U.S. Department of Justice

United States Attorney

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April 8, 2022

VIA ECF

Honorable Mitchell S. Goldberg
17614 U.S. Courthouse
601 Market Street
Philadelphia, PA 10106

Re: *Kimberly Shefcyk, individually and as a parental guardian of K.F., a minor v. Temple University Hospital, Inc., Temple Physicians, Inc., and Henry Su, D.O.*
Civil Action No. 21-cv-3413

Dear Judge Goldberg:

The parties write to request to lift the stay on the above-referenced matter. Plaintiff filed her administrative claim on September 9, 2021. On April 4, 2022, the attached denial was issued. The parties request that the stay be lifted pursuant to the September 20, 2021 Order, and the passage of seven (7) months since the filing of the administrative claim.

We thank Your Honor for his attention to this matter.

Respectfully submitted,

JENNIFER ARBITTIER WILLIAMS
United States Attorney

s/ Judith A.K. Amorosa
JUDITH A.K. AMOROSA
Assistant United States Attorney

enclosure

cc: Jordan Strokovsky (via ECF)
Richard Margulies (via ECF)
James A. Young (via ECF)



General Law Division/General Law Division
Claims Office
330 C Street, S.W.
Switzer Building, Suite 2100
Washington, D.C. 20201

APP - 4 2022

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Certified Receipt Number: 7021 0350 0001 4365 7974

Jordan Strokovsky, Esq.
Strokovsky LLC
1650 Market St, Suite 3600
Philadelphia, PA 19103

Re: **Administrative Tort Claim of Kimberly Shefcyk (mother and guardian) on behalf of**
K [REDACTED] F [REDACTED], a minor
Claim No. 2021-0710

Dear Mr. Strokovsky:

On September 9, 2021, you filed the above-referenced administrative tort claim under the Federal Tort Claims Act ("FTCA"), 28 U.S.C. §§ 1346(b), 2401(b), 2671-80, on behalf of your client: Kimberly Shefcyk (mother and guardian) on behalf of K [REDACTED] F [REDACTED] a minor, alleging, *inter alia*, that, beginning on or about February 18, 2018, medical providers of Delaware Valley Community Health, Inc., located in Philadelphia, Pennsylvania, provided K [REDACTED] F [REDACTED] with negligent medical care by causing serious and permanent injuries including but not limited to, cerebral palsy, traumatic brain injury, delayed milestones, inability to properly ambulate and use his limbs, undergoing ECMO, respiratory distress, and abnormal eye movements.

The FTCA authorizes the settlement of any claim of money damages against the United States for, *inter alia*, injury or death caused by the negligent, or wrongful, act or omission of any employees of the Federal Government, while acting within the scope of employment. Under the FTCA, said act or omission must be such that the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. 28 U.S.C. § 2672.

This letter constitutes the notice of final determination of your client's administrative tort claim, as required by 28 U.S.C. §§ 2401(b), 2675(a). The administrative tort claim of Kimberly Shefcyk (mother and guardian) on behalf of K [REDACTED] F [REDACTED] a minor, is denied.

First, the claim in the case accrued no later than February 2018. As such, the claim was filed outside the statute of limitations. 28 U.S.C. § 2401.

Jordan Strokovsky

Subj: Claim No. 2021-0710

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Second, the evidence fails to establish that the alleged injuries were due to the negligent or wrongful act or omission of a federal employee acting within the scope of employment.

If your client is dissatisfied with this determination, she is entitled to:

1. file a written request with the Agency for reconsideration of the final determination denying the claim within six (6) months from the date of mailing of this determination (28 C.F.R. § 14.9); or
2. file suit against the United States in the appropriate federal district court within six (6) months from the date of mailing of this determination (28 U.S.C. § 2401(b)).

In the event your client requests reconsideration, the Agency will review the claim within six (6) months from the date the request is received. If the reconsidered claim is denied, your client may file suit within six (6) months from the date of mailing of the final determination.

Sincerely,

**Jennifer B.
Smith -S**

Digitally signed by
Jennifer B. Smith -S
Date: 2022.03.24 15:41:40
-04'00'

Jennifer B. Smith
Deputy Associate General Counsel
Claims and Employment Law Branch